

Chapter Trans 327

MOTOR CARRIER SAFETY

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Trans 327.01 Definitions. Words and phrases defined in s. 340.01, Stats., and 49 CFR part 390.5 have the same meaning in this chapter. However, the definition of a word or phrase in s. 340.01, Stats., except s. 340.01 (8), Stats., shall apply when the word or phrase is defined in both s. 340.01, Stats., and 49 CFR part 390.5.

(2) In this chapter:

(a) “Driver’s record of duty status” means a form for all drivers, when required by this chapter, to record all off-duty time, on-duty time and driving time.

(b) “Emergency” means the result of any natural activities including, but not limited to, tornado, windstorm, thunderstorm, snowstorm, ice storm, blizzard, drought, mud slide, flood, high water, earthquake, forest fire, explosion, blackout or other occurrence, natural or manmade, which interrupts the delivery of essential services, such as electricity, medical care, sewer, water, telecommunication transmissions, or essential supplies, such as food and fuels, or otherwise threatens human life or public welfare.

History: Cr. Register, May, 1987, No. 377, eff. 6-1-87; emerg. r. and recr. (intro.), renun. (1) and (2) to be (2) (b) and (d), cr. (1), (2) (intro.), (a), (c), (d) 9., eff. 4-1-95; r. and recr. (intro.), renun. (1) and (2) to be (2) (b) and (d) and am. (2) (d) (intro.) and 3., cr. (2) (a), (c) and (d) 9., Register, August, 1995, No. 476, eff. 9-1-95; correction in (2) (d) 3., made under s. 13.93 (2m) (b) 7., Stats., Register, October, 2000, No. 538; CR 02-080: renun. (2) (c), (d) and (4) to be (2) (d), (f) and (h) and am. (2) (f) 3., cr. (2) (c), (e) and (g) Register April 2003 No. 568, eff. 5-1-03; CR 06-043: r. (2) (b), (c), (e) to (h), renun. (2) (d) to be (2) (b) Register October 2006 No. 610, eff. 11-1-06.

Trans 327.03 Federal regulations adopted. The following federal motor carrier safety regulations adopted by the United States department of transportation are adopted by the department and shall be enforced in relation to those carriers, drivers or vehicles which operate in intrastate commerce in the same manner as though the regulations were set out in full in this chapter:

(1) Title 49, Code of Federal Regulations, part 390, federal motor carrier safety regulations — general, except 390.23(a)(3);

(2) (a) Title 49, Code of Federal Regulations, part 391, qualifications of drivers, except:

1. 391.11(b)(1), and 391.41(b)(3) if, in the alternative a driver with diabetes controlled by insulin obtains statements from 2 licensed physicians indicating, on a form provided by the department of transportation, that the diabetes is not likely to cause loss of ability to control or operate a motor vehicle.

2. 391.41(b)(10), if a driver who does not meet the vision standards provides documentation from a licensed vision specialist that he or she does not have progressive eye disease; that his or her vision in the best eye, corrected or uncorrected, is at least 20/40 (Snellen); and that he or she has a minimum of 70-degree visual field from the center of at least one eye. The documentation shall be accompanied by a statement from the specialist indicating that the driver’s vision is not likely to cause a loss of ability to control or operate a commercial motor vehicle. A driver may apply for an exception or waiver to drive in intrastate commerce by submitting this information with his or her application.

(b) A driver is not eligible for an exception or waiver under par.

(a) if he or she has had any moving violations or any reportable at-fault accidents while driving any motor vehicle within the

3-year period prior to the date of the application. After a driver receives an exception or waiver, his or her noncompliance with any applicable reporting requirements may result in cancellation of the exception or waiver.

Note: Refer to ch. Trans 112 for criteria requiring cancellation/voluntary temporary surrender of the CDL for medical purposes.

(3) Title 49, Code of Federal Regulations, part 392, driving of motor vehicles, except 392.16;

(4) Title 49, Code of Federal Regulations, part 393, parts and accessories necessary for safe operation, except 393.42 shall not apply to vehicles placed in operation in common, contract or private carriage prior to June 1, 1987;

(5) Title 49, Code of Federal Regulations, part 396, inspection, repair and maintenance;

(6) Title 49, Code of Federal Regulations, part 397, transportation of hazardous materials; driving and parking rules.

(7) Every traffic officer and state patrol inspector employed under the authority of s. 110.07, Stats., is authorized to declare vehicles and drivers out-of-service in accordance with the North American standard out-of-service criteria.

Note: The North American Standard Out-of-Service Criteria is on file with the Legislative Reference Bureau and the Department of Transportation, Division of State Patrol. Copies may be obtained by writing to the Division of State Patrol, P. O. Box 7912, Madison, WI 53707-7912, or to the Commercial Vehicle Safety Alliance, 1101 17th Street, NW, Suite 803, Washington, DC 20036, or by calling 202-775-1623. You may also request copies via their website at www.cvsa.org.

(8) Title 49, Code of Federal Regulations, part 382, federal motor carrier safety regulations — controlled substances and alcohol use and testing;

(9) Title 49, Code of Federal Regulations, part 40, procedures for transportation workplace drug and alcohol testing programs;

(10) Title 49, Code of Federal Regulations, part 395, hours of service of drivers, except 395.1(e)(1), 395.1(h), 395.1(i), 395.5, 395.8, and the maximum number of hours identified in 395.3 is adopted as follows:

(a) More than 12 hours following 10 consecutive hours off duty.

(b) For any period after having been on duty 16 hours following 10 consecutive hours off duty.

(c) After having been on duty for 70 hours in any period of 7 consecutive days.

(d) After having been on duty for 80 hours in any period of 8 consecutive days.

(11) Title 49, Code of Federal Regulations, part 385, subpart C, certification of safety auditors, safety investigators and safety inspectors.

History: Cr. Register, May, 1987, No. 377, eff. 6-1-87; emerg. am. (intro.), (1), (4) and (5), eff. 4-1-95; am. (intro.), (1), (4) and (5), Register, August, 1995, No. 476, eff. 9-1-95; am. (intro.) and (2), Register, October, 2000, No. 538, eff. 11-1-00; CR 02-080: am. (intro.), renun. (1) to (6) to be (3) to (8) and am. (4) and (7), cr. (1), (2) and (9) Register April 2003 No. 568, eff. 5-1-03; CR 03-059: am. (intro.), renun. (1) to (3) to be (8), (9) and (1) and (5) to (8) to be (3) to (6), renun. and am. (4) to be (2) and (9) to be (7) Register December 2003 No. 576, eff. 1-4-04; CR 06-043: am. (intro.), (2) and (7), cr. (10) Register October 2006 No. 610, eff. 11-1-06; EmR0833: emerg. am. (intro.) and (7), cr. (11), eff. 11-5-08; CR 08-100: am. (intro.) and (7), cr. (11) Register April 2009 No. 640, eff. 5-1-09.

Trans 327.05 Hours of service of drivers. (1) GENERAL. Except as provided in s. Trans 327.09 (4), every intrastate

motor carrier, its officers, drivers, agents, employees, and representatives shall comply with the provisions in this section, and every intrastate motor carrier shall require that its officers, drivers, agents, employees, and representatives be conversant with the provisions in this section.

(2) **REGULATORY GUIDANCE.** The hours of service provisions in this chapter shall be interpreted in a manner consistent with the regulatory guidance provisions of 49 CFR part 395 when applicable.

(3) **DRIVER'S RECORD OF DUTY STATUS.** (a) Every motor carrier shall require every driver used by the motor carrier to record the driver's duty status for each 24-hour period. Failure to complete the record of duty activities of this section, failure to preserve a record of such duty activities, or making of false reports in connection with such duty activities shall constitute a violation of this chapter.

(b) Each motor carrier shall maintain records of duty status and all supporting documents for each driver it employs for a period of 6 months from the date of receipt of the duty status and reporting documents.

(c) The driver shall retain a copy of each record of duty status for the previous 7 consecutive days which shall be in the driver's possession and available for inspection while on duty.

Note: The maintenance and retention of separate driving logs is not necessarily required to meet the 'records of duty status' provisions of this subsection. This subsection does, however, require records showing all off-duty, on-duty and driving time. A time card, for example, that recorded the daily total of off-duty, the daily total of on-duty, and the daily total of driving time for the employee could be used to meet the reporting requirements of this subsection.

(4) **DRIVERS DECLARED OUT OF SERVICE.** (a) Every traffic officer and state patrol inspector, as set forth in s. 110.07, Stats., is authorized, except in the case of an emergency, to declare a driver out of service and to notify the motor carrier of that declaration, upon finding at the time and place of examination that the driver has violated par. (b).

(b) 1. No driver shall drive after being on duty in excess of the maximum periods permitted by s. Trans 327.03 (10).

2. No driver required to maintain a record of duty status under sub. (3) shall fail to have a true and accurate record of duty status current on the day of examination and for the prior 7 consecutive days.

History: Cr. Register, May, 1987, No. 377, eff. 6-1-87; emerg. am. (1), (4) to (6), renum. (2) to be (3) and am., cr. (2), (3) (c) and (d), eff. 4-1-95; am. (1), (4) to (6), renum. (2) to be (3) and am., cr. (2), (3) (c) and (d), Register, August, 1995, No. 476, eff. 9-1-95; CR 02-080: renum. (5) and (6) to be (5) (a) and (6) (a) and am., cr. (5) (b), (c) and (6) (b) Register April 2003 No. 568, eff. 5-1-03; CR 06-043: r. (3) and (4), renum. (5) and (6) to be (3) and (4) and am. (4) (b) 1. and 2. Register October 2006 No. 610, eff. 11-1-06.

Trans 327.07 Enforcement. (1) The provisions of s. Trans 327.03 (4) and (5) shall be enforced under the provisions of ss. 110.07 and 110.075, Stats.

(2) The provisions of ss. Trans 327.03 (2), (3), (6) and (10), and 327.05 shall be enforced under the provisions of ss. 194.38 and 194.43, Stats.

History: Cr. Register, May, 1987, No. 377, eff. 6-1-87; emerg. am. (2), eff. 4-1-95; am. (2), Register, August, 1995, No. 476, eff. 9-1-95; corrections made under s. 13.93 (2m) (b) 7., Stats., Register May 2003 No. 569; corrections made under s. 13.93 (2m) (b) 7., Stats., Register December 2003 No. 576; CR 06-043: am. (2) Register October 2006 No. 610, eff. 11-1-06.

Trans 327.09 Exemptions. (1) The provisions of s. Trans 327.03 do not apply to a driver or school bus when the school bus is being used for authorized educational or extracurricular or charter activities.

(2) The provisions of s. Trans 327.03 (2) do not apply to the following:

(a) Drivers who operate motor vehicles which have a manufacturers' gross vehicle weight rating equal to or less than 26,000 pounds, except that this provision does not apply to vehicles transporting hazardous materials requiring placarding or vehicles transporting 16 or more passengers including the driver.

(b) Drivers who have met state medical qualifications and have been issued a valid Wisconsin commercial driver's license, or CDL, prior to July 29, 1996, which has not been revoked, and who continue to meet state medical requirements as found in ch. Trans 112.

(3) The provisions of s. Trans 327.03 (6) do not apply to drivers and vehicles transporting hazardous materials by a motor vehicle which is not required to be placarded.

(4) The provisions of s. Trans 327.05 do not apply to the following:

(a) Drivers of authorized emergency vehicles as defined in s. 340.01 (3), Stats.

(b) Drivers who operate motor vehicles which have a manufacturers' gross vehicle weight rating equal to or less than 26,000 pounds.

(c) Drivers of tow trucks as defined in s. 340.01 (67n), Stats., operating at the request of a law enforcement officer.

(5) The provisions of s. Trans 327.05 (3) do not apply to drivers of vehicles operating within an area having a 150 air mile radius from the drivers' home post office or a 150 air mile radius from the official worksite of the vehicle if:

(a) The driver returns to the work reporting location and is released within 12 consecutive hours.

(b) At least 10 consecutive hours off duty separate each 12 hours on duty.

(c) The driver does not exceed 12 hours maximum driving time following 10 consecutive hours off duty.

(d) The motor carrier that employs the driver maintains and retains for a period of 6 months accurate and true time records showing:

1. The time the driver reports for duty each day.
2. The total number of hours the driver is on duty each day.
3. The time the driver is released from duty each day.

(6) (a) The provisions of ss. Trans 327.03 (2) and 327.05 do not apply to drivers of motor vehicles when transporting property or passengers during a declared emergency as defined in s. Trans 327.01 (2) (b). Each employer must declare and document that the emergency is necessary to assure the protection of public health and safety or to provide other essential assistance to the public. Each employer shall maintain such documentation for one year and shall make it available upon request of a traffic officer or state patrol inspector. Each employer shall also notify the Wisconsin department of transportation, division of state patrol of such declarations by fax or first class mail within 30 days or by the end of the calendar year, whichever is greater.

Note: Declarations can be faxed to (608) 267-9600.

(b) Drivers returning to normal duty following the end of a declared emergency and when s. Trans 327.05 hours of service have been exceeded shall be off duty for at least 24 consecutive hours.

(7) The provisions of this chapter do not apply to any farm truck or dual purpose farm truck combined with any semitrailer or farm trailer, or any vehicle combined with a horse trailer, if the vehicle combination's gross combination weight rating, registered weight, and actual gross weight do not exceed 26,000 pounds, the vehicle combination does not include a commercial motor vehicle described in s. 340.01 (8) (c) or (d), Stats., and the vehicle combination is operated solely in intrastate commerce.

History: Cr. Register, May, 1987, No. 377, eff. 6-1-87; emerg. am. (2) (a) and (3), r. and recr. (2) (b), renum. (4) (c) to be (5), cr. (4) (c), eff. 4-1-95; am. (2) (a) and (3), r. and recr. (2) (b), renum. (4) (c) to be (5) (intro.) and am., cr. (4) (c), (5) (a) to (d) and (6), r. (4) (d), Register, August, 1995, No. 476, eff. 9-1-95; renum. (6) to be (6) (a), cr. (6) (b), Register, October, 2000, No. 538, eff. 11-1-00; CR 02-080: renum. (6) to be (13) and am., cr. (6) to (12) Register April 2003 No. 568, eff. 5-1-03; corrections in (2) (intro.), (3) and (13) (a) made under s. 13.93 (2m) (b) 7., Stats., Register May 2003 No. 569; CR 03-059: am. (8) (intro) and (b) Register December 2003 No. 576, eff. 1-4-04; corrections in (2) (intro), (3) and (13) (a) made under s. 13.93 (2m) (b) 7., Stats., Register December 2003 No. 576; CR 06-043: am. (5) (intro.), (b) and (c), r. (6) to (12), renum. (13) to be (6) and am. (6) (a), cr. (7) Register October 2006 No. 610, eff. 11-1-06.

Trans 327.11 Demerit points not applicable. No demerit points may be assessed for violations of the regulations adopted in this chapter.

History: Cr. Register, May, 1987, No. 377, eff. 6-1-87.

Trans 327.13 Copies of federal regulations. The department shall advise carriers upon request that copies of the federal regulations cited in s. Trans 327.03 may be obtained by contacting the division of state patrol, Wisconsin department of transportation.

Note: Federal motor regulations may also be obtained through the Internet via: <http://www.fmcsa.dot.gov/rules-regulations/administration/fmcsr/fmcsrguide.asp>

History: Cr. Register, May, 1987, No. 377, eff. 6-1-87; emerg. am. eff. 4-1-95; am. Register, August, 1995, No. 476, eff. 9-1-95; **CR 08-100: am. Register April 2009 No. 640, eff. 5-1-09.**